



THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS

PRICE DANIEL

ATTORNEY GENERAL

July 23, 1947

Hon. T. B. Warden, Member
State Board of Control
Austin, Texas

Opinion No. V-310

Re: Authority of the
Board of Control
to collect for
maintenance of
non-indigent pa-
tients at Texas
Confederate Home
for Men.

Dear Sir:

Your letter to us states that a patient was admitted to the San Antonio State Hospital on February 24, 1897; and that on May 24, 1943, this patient was transferred from the San Antonio State Hospital to the Texas Confederate Home for Men, with a diagnosis of senile dementia. We are advised that he is not a Confederate Veteran. You desire to know whether the State of Texas is entitled to be reimbursed for his board, maintenance, and treatment.

Our State Constitution, Article III, Section 51, amended in 1928, in part reads as follows:

"The Legislature shall . . . grant aid for the establishment and maintenance of a home for said (Confederate) soldiers and sailors, their wives and widows and women who aided in the Confederacy, under such regulations and limitations as may be provided by law; provided the Legislature may provide for husband and wife to remain together in the home." (Underscoring ours).

Article 3196a, V. C. S., reads in part as follows:

"Section 1. Patients admitted to State hospitals and State psychopathic hospitals shall be of two classes, to-wit:

"Indigent patients;

"Non-indigent patients;

"Indigent patients are those who possess no property of any kind nor have anyone legally responsible for their support, and who are unable to reimburse the State. This class shall be supported at the expense of the State.

"Non-indigent patients are those who possess some property out of which the State may be reimbursed, or who have someone legally liable for their support. This class shall be kept and maintained at the expense of the State, as in the first instance, but in such cases the State shall have the right to be reimbursed for the support, maintenance and treatment of such patients.

"Sec. 2. Where the patient has no sufficient estate of his own, he shall be maintained at the expense;

"Of the husband or wife of such person, if able to do so;

"Of the father or mother of such person, if able to do so."

The 48th Legislature (1943), Regular Session, page 18, Chapter 16, provided for the immediate admission into the Texas Confederate Home for Men at Austin, of senile persons now or hereafter admitted to a State Hospital or from any county in Texas, provided they are transferred there by the State Board of Control. The pertinent parts of said Act, which is codified in Vernon's Civil Statutes as Article 3216a are as follows:

"Section 1. That all eligible Confederate Veterans hereafter making application for admission to the Texas Confederate Home for Men at Austin, Texas, be given priority of admission, and the State Board of Control, shall reserve

sufficient space, at all times, for their admission and maintenance and they, together with all Confederate Veterans now maintained in said home, and all senile persons to be transferred to said home shall be segregated and be maintained in said home.

"Sec. 2. The Superintendent of any State Hospital is hereby authorized, upon receipt of a written order from the State Board of Control, to transfer from said Texas Hospital to the Texas Confederate Home for Men at Austin, Texas, any senile patient now being maintained in said hospital, or hereafter admitted thereto, and to relinquish custody of said senile patient, and custody of said patient is hereby placed in the Confederate Home for Men at Austin, Texas.

"Sec. 3. The State Board of Control shall have the right to cause to be admitted to the Texas Confederate Home for Men at Austin, Texas, any senile aged person after such person has been duly adjudged insane, upon receipt of the certified transcript of such proceeding in the manner required by law.

"Sec. 4. The Superintendent of the Texas Confederate Home for Men at Austin, Texas, may, upon the recommendation of the chief physician employed at such institution, grant any senile patient confined therein a furlough or discharge in the same manner in which such senile patients are now released from State Hospitals.

"Sec. 5. The Texas Confederate Home for Men at Austin, Texas, shall never be considered a custodial institution in so far as the laws, rules and regulations governing such institutions affect Confederate Veterans, but shall be and is hereby made a custodial institution for senile patients.

"Sec. 6. The preceding provisions of this Act are cumulative of existing law governing the Texas Confederate Home for Men, and it is the legislative intent that such home revert to the purposes for which it had been heretofore dedicated, when other facilities for the care of the seniled aged patients, contemplated by this Act, are provided."

A hospital is an institution for the reception, care and medical treatment of the sick or injured; and a psychopathic hospital is an institution to treat and care for persons afflicted with mental disorders. "Senile" pertains to, or is characteristic of, or is caused by old age.

The Legislature by enacting Article 3216a specifically made the Texas Confederate Home for Men at Austin, Texas, when used as authorized by this statute, "a custodial institution for senile patients" (Section 5) and authorizes the Superintendent thereof to grant "any senile patient confined therein a furlough or discharge in the same manner in which such senile patients are now released from State hospitals." (Section 4). Thus, the Texas Confederate Home for Men at Austin, Texas, when serving as a custodial institution for senile patients is a State hospital or a State psychopathic hospital, and therefore, such patients in the Confederate Home, who do not qualify as Confederate Veterans, come within the purview of Article 3196a, V. C. S. If the State of Texas is entitled to be reimbursed for the care and treatment of such a patient at any other State hospital or State psychopathic hospital under Article 3196a, V. C. S., then, in our opinion, the State Board of Control may require reimbursement for board, maintenance, and treatment of such non-indigent patients at the Texas Confederate Home for Men.

SUMMARY

Article 3216a, V. C. S., authorizes the additional use of the Texas Confederate Home for Men at Austin, Texas, as a custodial institution for senile patients who are not Confederate Veterans, and the State is due reimbursement for board, maintenance, and treatment of such patients who

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are non-indigent within that classifica-
tion under Article 3196a, V. C. S.

Yours very truly

ATTORNEY GENERAL OF TEXAS



By

David Wuntch
Assistant.

DW/jmc

APPROVED:


ATTORNEY GENERAL.